

TASMANIA

**CLASSIFICATION (PUBLICATIONS, FILMS AND
COMPUTER GAMES) ENFORCEMENT
AMENDMENT BILL 2008**

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

**PART 2 – CLASSIFICATION (PUBLICATIONS, FILMS AND
COMPUTER GAMES) ENFORCEMENT ACT 1995
AMENDED**

3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 4A inserted
 - 4A. Films contained on devices consisting only of classified films
6. Section 20 amended (Requirements for exhibiting film in public place)
7. Section 33 amended (Classified film not to be sold or delivered under different title or in altered form)
8. Section 66B amended (Obtaining copies for review)
9. Part 7: Heading amended
10. Section 67AA inserted
 - 67AA. Interpretation

11. Section 67 amended (Exemption of film, publication, computer game or advertisement)
12. Section 68 substituted
 68. Exemption of approved organisation for activities or functions
13. Section 69 amended (How does an organisation become an approved organisation?)
14. Section 70 amended (Approved organisation may apply for exemption)
15. Section 78 amended (Evidence)
16. Section 88C inserted
 - 88C. Transitional provisions (2008 amendments)

PART 3 – CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ENFORCEMENT ACT 1995 FURTHER AMENDED

17. Principal Act
18. Section 3 amended (Interpretation)
19. Section 57 amended (Certain advertisements for films, publications and computer games not to be published)
20. Section 58 amended (Advertisement for classified film not to be screened during public exhibition of other film of lower classification)
21. Section 59 amended (Classified film not to be sold or delivered with advertisement for film of higher classification)
22. Section 59A inserted
 - 59A. Advertisement for unclassified film to be in accordance with Advertising Scheme
23. Section 60 amended (Classified computer game not to be sold, delivered or demonstrated with advertisement for computer game of higher classification)
24. Section 60A inserted
 - 60A. Advertisement for unclassified computer game to be in accordance with Advertising Scheme
25. Section 66 amended (Board may call in advertisement)

**CLASSIFICATION (PUBLICATIONS, FILMS AND
COMPUTER GAMES) ENFORCEMENT
AMENDMENT BILL 2008**

*(Brought in by the Minister for Justice, the Honourable David
Edward Llewellyn)*

A BILL FOR

**An Act to amend the *Classification (Publications, Films and
Computer Games) Enforcement Act 1995* consequent on
certain amendments made to the *Classification
(Publications, Films and Computer Games) Act 1995* of the
Commonwealth and for related purposes**

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Classification
(Publications, Films and Computer Games)
Enforcement Amendment Act 2008*.

2. Commencement

- (1) Except as provided in this section, this Act
commences on the day on which this Act
receives the Royal Assent.

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

s. 2

Part 1 – Preliminary

(2) Part 3 commences on a day to be proclaimed.

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

Part 2 – Classification (Publications, Films and Computer Games)
Enforcement Act 1995 Amended

s. 3

**PART 2 – CLASSIFICATION (PUBLICATIONS, FILMS
AND COMPUTER GAMES) ENFORCEMENT ACT 1995
AMENDED**

3. Principal Act

In this Part, the *Classification (Publications, Films and Computer Games) Enforcement Act 1995** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of “approved form” and substituting the following definition:

“approved form” means a form approved under section 8A of the Commonwealth Act;

- (b) by inserting the following definition after the definition of “contentious material”:

“Convenor” means the Convenor of the Review Board appointed under section 74 of the Commonwealth Act;

*No. 105 of 1995

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

s. 5 Part 2 – Classification (Publications, Films and Computer Games)
 Enforcement Act 1995 Amended

5. Section 4A inserted

After section 4 of the Principal Act, the following section is inserted in Part 1:

4A. Films contained on devices consisting only of classified films

Despite any other provision of this Act, a film that –

- (a) is contained on one device; and
- (b) consists only of 2 or more classified films –

is to be treated for the purposes of this Act as if each of the classified films were on a separate device.

6. Section 20 amended (Requirements for exhibiting film in public place)

Section 20 of the Principal Act is amended as follows:

- (a) by omitting “A person” and substituting “(1) A person”;
- (b) by inserting the following subsection:
 - (2) Subsection (1) is not contravened by reason only of the exhibition of a film –

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

Part 2 – Classification (Publications, Films and Computer Games)
Enforcement Act 1995 Amended

s. 7

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- (a) under a title different from that under which it is classified if it is contained on one device that consists only of 2 or more classified films; or
 - (b) with a modification referred to in section 21(2) of the Commonwealth Act.

7. Section 33 amended (Classified film not to be sold or delivered under different title or in altered form)

Section 33 of the Principal Act is amended as follows:

- (a) by omitting “A person” and substituting “(1) A person”;
- (b) by inserting the following subsection:
 - (2) Subsection (1) is not contravened by reason only of the sale or delivery of a classified film –
 - (a) under a title different from that under which it is classified if it is contained on one device that consists only of 2 or more classified films; or

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

s. 8 Part 2 – Classification (Publications, Films and Computer Games)
 Enforcement Act 1995 Amended

(b) with a modification
referred to in section
21(2) of the
Commonwealth Act.

8. Section 66B amended (Obtaining copies for review)

Section 66B(1) of the Principal Act is amended
by omitting “Director” and substituting
“Convenor”.

9. Part 7: Heading amended

Part 7 of the Principal Act is amended by
omitting “**FOR FILMS**” from the heading to
that Part.

10. Section 67AA inserted

Before section 67 of the Principal Act, the
following section is inserted in Part 7:

67AA. Interpretation

In this Part –

“**approved organisation**” means an
organisation approved under
section 69.

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

Part 2 – Classification (Publications, Films and Computer Games)
Enforcement Act 1995 Amended

s. 11

11. Section 67 amended (Exemption of film, publication, computer game or advertisement)

Section 67 of the Principal Act is amended by omitting “film.” and substituting “film, publication, computer game or advertisement.”.

12. Section 68 substituted

Section 68 of the Principal Act is repealed and the following section is substituted:

68. Exemption of approved organisation for activities or functions

The Minister or Director may, on application under section 70, direct in writing that this Act does not apply, or that specified provisions of this Act do not apply, to the extent and subject to any condition specified in the direction, to an approved organisation in relation to –

- (a) the exhibition of a film, or demonstration of a computer game, at an event specified in the direction; or
- (b) all or any of the approved organisation’s activities or functions as they relate to films or computer games.

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

s. 13 Part 2 – Classification (Publications, Films and Computer Games)
 Enforcement Act 1995 Amended

13. Section 69 amended (How does an organisation become an approved organisation?)

Section 69 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “this Part.” and substituting “section 68.”;
- (b) by omitting from subsection (4)(c) “films;” and substituting “films or the demonstration of computer games;”;
- (c) by omitting from subsection (4)(d) “films” and substituting “films, or the demonstration of computer games,”.

14. Section 70 amended (Approved organisation may apply for exemption)

Section 70 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “The application” and substituting “An application for an exemption under section 68(a)”;
- (b) by omitting paragraph (b) from subsection (2) and substituting the following paragraph:
 - (b) specify the film or computer game which the organisation

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

Part 2 – Classification (Publications, Films and Computer Games)
Enforcement Act 1995 Amended

s. 14

intends to exhibit or demonstrate
and specify the event at which the
film or computer game is to be
exhibited or demonstrated; and

- (c) by omitting from subsection (2)(c)(i) “film;” and substituting “film or computer game;”;
- (d) by omitting from subsection (2)(c)(ii) “fee.” and substituting “fee, if any.”;
- (e) by inserting the following subsections after subsection (2):

(2A) An application for an exemption under section 68(b) is to –

- (a) be in writing; and
- (b) specify the extent of the exemption sought; and
- (c) be accompanied by the prescribed fee, if any.

(2B) The Minister or Director may require the applicant organisation to provide such information or evidence as the Minister or Director requires in order to consider the application.

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

s. 15 Part 2 – Classification (Publications, Films and Computer Games)
 Enforcement Act 1995 Amended

15. Section 78 amended (Evidence)

Section 78(1)(a) of the Principal Act is amended by omitting “Director or Deputy Director” and substituting “Director, Deputy Director or Convenor”.

16. Section 88C inserted

After section 88B of the Principal Act, the following section is inserted in Division 2:

88C. Transitional provisions (2008 amendments)

Each of the following provisions applies to a film whether the film is published before or after the commencement of that provision:

- (a) section 4A;
- (b) section 20(2);
- (c) section 33(2).

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

Part 3 – Classification (Publications, Films and Computer Games)
Enforcement Act 1995 Further Amended

s. 17

**PART 3 – CLASSIFICATION (PUBLICATIONS, FILMS
AND COMPUTER GAMES) ENFORCEMENT ACT 1995
FURTHER AMENDED**

17. Principal Act

In this Part, the *Classification (Publications, Films and Computer Games) Enforcement Act 1995** is referred to as the Principal Act.

18. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by inserting after the definition of “advertisement” the following definition:

“**Advertising Scheme**” means the scheme determined from time to time under section 31 of the Commonwealth Act;

19. Section 57 amended (Certain advertisements for films, publications and computer games not to be published)

Section 57(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “film, other than a film in relation to which a

*No. 105 of 1995

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

s. 20 Part 3 – Classification (Publications, Films and Computer Games)
 Enforcement Act 1995 Further Amended

certificate of exemption has been granted under section 32 of the Commonwealth Act;” and substituting “film, if the advertisement contravenes the Advertising Scheme;”;

- (b) by omitting from paragraph (f) “game.” and substituting “game, if the advertisement contravenes the Advertising Scheme.”.

20. Section 58 amended (Advertisement for classified film not to be screened during public exhibition of other film of lower classification)

Section 58 of the Principal Act is amended as follows:

- (a) by inserting “classified” after “for a”;
- (b) by inserting “classified” after “another”.

21. Section 59 amended (Classified film not to be sold or delivered with advertisement for film of higher classification)

Section 59 of the Principal Act is amended as follows:

- (a) by inserting “classified” after “delivered, a”;

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

Part 3 – Classification (Publications, Films and Computer Games)
Enforcement Act 1995 Further Amended

s. 22

(b) by inserting “classified” after “another”.

22. Section 59A inserted

After section 59 of the Principal Act, the following section is inserted in Part 5:

59A. Advertisement for unclassified film to be in accordance with Advertising Scheme

- (1) A person must not screen in a public place an advertisement for an unclassified film during a program for the exhibition of a classified film if the advertisement contravenes the Advertising Scheme.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person must not sell or deliver, or cause to be sold or delivered, a classified film that is accompanied by an advertisement for an unclassified film if the advertisement contravenes the Advertising Scheme.

Penalty: Fine not exceeding 20 penalty units.

23. Section 60 amended (Classified computer game not to be sold, delivered or demonstrated with

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

s. 24 Part 3 – Classification (Publications, Films and Computer Games)
 Enforcement Act 1995 Further Amended

advertisement for computer game of higher classification)

Section 60 of the Principal Act is amended as follows:

- (a) by omitting “sell or deliver,” and substituting “sell, deliver or demonstrate,”;
- (b) by omitting “sold or delivered,” and substituting “sold, delivered or demonstrated,”;
- (c) by inserting “classified” after “demonstrated, a”;
- (d) by inserting “classified” after “another”.

24. Section 60A inserted

After section 60 of the Principal Act, the following section is inserted in Part 5:

60A. Advertisement for unclassified computer game to be in accordance with Advertising Scheme

A person must not sell, deliver or demonstrate, or cause or permit to be sold, delivered or demonstrated, a classified computer game that is accompanied by an advertisement for an unclassified computer game if the

*Classification (Publications, Films and Computer Games)
Enforcement Amendment Act 2008
Act No. of*

Part 3 – Classification (Publications, Films and Computer Games)
Enforcement Act 1995 Further Amended

s. 25

advertisement contravenes the
Advertising Scheme.

Penalty: Fine not exceeding 20 penalty
units.

**25. Section 66 amended (Board may call in
advertisement)**

Section 66(1)(a) of the Principal Act is amended
by omitting “classified”.